

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division

CONSUMER FINANCIAL PROTECTION
BUREAU, et al.,

Plaintiffs,

v.

NEXUS SERVICES, INC., et al.,

Defendants.

Case No.: 5:21-cv-00016-EKD-JCH

**PLAINTIFFS' MOTION FOR AN ORDER TO SHOW CAUSE WHY
DEFENDANTS SHOULD NOT BE HELD IN CIVIL CONTEMPT, TO IMPOSE
DISCOVERY SANCTIONS, AND FOR CERTIFICATION UNDER 28 U.S.C. §
636(e)(6)(B)(iii)**

Plaintiffs Consumer Financial Protection Bureau (Bureau), the Commonwealth of Massachusetts (Massachusetts), the People of the State of New York by Letitia James, Attorney General of the State of New York (New York), and the Commonwealth of Virginia (Virginia), respectfully move the Court to sanction Defendants Nexus Services, Inc., Libre by Nexus, Inc., Micheal Donovan, Richard Moore, and Evan Ajin for failing to comply with the June 8, 2022, Order for Defendants to Provide or Permit Discovery (Discovery Order)¹ and to order Defendants to show cause why they should not be held in contempt of court.

Plaintiffs request that Magistrate Judge Hoppe issue an order:

- (1) Finding that Defendants' failure to obey the Discovery Order should be treated as civil contempt of court under Fed. R. Civ. P. 37(b)(2)(A)(vii) and 28 U.S.C. 636(e)(6)(b)(iii);

¹ ECF No. 129.

- (2) certifying facts to the Court sufficient to demonstrate Defendants' contempt, under 28 U.S.C. § 636(e)(6)(b)(iii);
- (3) requiring Defendants to show cause why they should not be adjudged in contempt by reason of the certified facts, under 28 U.S.C. § 636(e)(6)(b)(iii);
- (4) recommending to the Court that, upon a finding of contempt, each Defendant be ordered to pay a fine of \$5,000.00 per day continuing until such time as Defendants fully comply with the Discovery Order;
- (5) awarding Plaintiffs their reasonable expenses, including attorneys' fees, under Fed. R. Civ. P. 37(a)(5) or 37(b)(2)(C);
- (6) extending all relevant dates in the Scheduling Order² and Amended Joint Rule 26(f) Report³ by nine (9) months or such other period as may be necessary to account for Defendants' continuing failure to provide discovery; and
- (7) granting Plaintiffs any other or additional relief that may be appropriate.

In support of this motion, Plaintiffs submit a memorandum and the declaration of James E. Scott. For the reasons set forth therein, Plaintiffs respectfully request that this Court grant their motion.

Respectfully submitted,

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² ECF No. 66.

³ ECF No. 102.

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CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2022, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all counsel of record for the parties.

/s/ James E. Scott
James E. Scott